

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

LENORA WOODWARD,

742 Longview Ave.
Akron, Ohio 44307,

Plaintiff,

v.

**DIGNITY HEALTH
REHABILITATION HOSPITAL,**

2930 Siena Heights Drive
Henderson, NV 89052,

and,

JOHN DOE ENTITIES 1-10,

Defendants.

Case No.

Judge:

COMPLAINT FOR NEGLIGENCE

(Jury Demand Endorsed Hereon)

NOW COMES the Plaintiff, *Lenora Woodward*, and for her Complaint against the Defendants alleges and avers as follows:

THE PARTIES

1. The Plaintiff, Lenora Woodward, is a real person residing in Akron, Ohio.
2. The Defendant, Dignity Health Rehabilitation Hospital, is a business entity of unknown type that does business in Nevada, among other places.
3. The Defendants, John Doe Entities Nos. 1 – 10, are entities of unknown type and name, and whose identity is presently unknown after reasonable diligence and investigation. These unknown entities may be responsible for all or part of the injuries and damages sustained by the Plaintiff. Upon learning of their identities through discovery, if any, the Plaintiff will

1 identify said Defendants promptly per the Federal Rules of Civil Procedure and seek leave to
2 amend her pleadings to reflect the accurately named party-Defendant, which amendment
3 would relate back to this Complaint.

4 **JURISDICTION AND VENUE**

- 5
- 6 4. This is a negligence case. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332
7 as the amount in controversy exceeds the sum of \$75,000 and the action is between citizens
8 of different states. Subject matter jurisdiction is present by way of the Court's diversity
9 jurisdiction.
- 10 5. This Court has personal jurisdiction over the Defendant by virtue of their contacts within the
11 State of Ohio, within this judicial district. The Defendant acted negligently in caring for
12 Plaintiff, which resulted in Plaintiff suffering bed sores, and has caused Plaintiff to continue
13 to suffer and be harmed here in Akron, Ohio. The Court has personal jurisdiction pursuant to
14 *International Shoe v. Washington*, 326 US 310 (1945), and F.R.C.P. Rule 4(k)(1)(a).
- 15
- 16 6. Venue is proper in the Northern District of Ohio because a substantial part of the events and
17 injuries giving rise to the claims occurred in this judicial district, and the Defendant is subject
18 to personal jurisdiction in this district pursuant to 28 U.S.C. § 1391.

19 **FACTUAL ALLEGATIONS**

- 20
- 21 7. The Plaintiff is a 79-year-old woman. Plaintiff's deteriorating physical condition and health
22 makes it practically impossible for her to proceed with a lawsuit in Nevada, and thus this
23 case is filed under diversity principles here in Akron, Ohio since Plaintiff now resides in
24 Akron.

1 8. This case involves neglect that occurred while Plaintiff was a resident at Defendant's
2 rehabilitation facility in Las Vegas, Nevada, in which she stayed there from Jan. 1, 2020 to
3 Jan. 17, 2020. During this stay, Defendant neglected Plaintiff and she suffered bedsores
4 (pressure ulcers) from the neglect. (See photographs of Plaintiff's injuries attached hereto
5 and incorporated herein as "Exhibit 1.")
6

7 9. This lawsuit is brought seeking compensatory damages for personal injuries she sustained
8 because of the neglect by Defendant and/or its agents.

9 10. Bedsores are never excusable and should never happen with proper care. Bedsores develop
10 when the blood supply is cut off to the skin for more than two or three hours. Bedsores are
11 easily preventable by turning or repositioning, placing soft padding on beds, keeping skin
12 clear and dry, and by providing proper nutrition. Plaintiff suffered Stage 4 bedsores at the
13 neglect of Defendant (see Ex. 1.).
14

15 **CLAIM NO. 1**
16 *(Negligence)*

17 11. The Plaintiff hereby incorporates by reference every statement made in this Complaint,
18 whether written above or below, as if each is fully re-written herein.

19 12. In tort law, whether a defendant owes a duty to a plaintiff depends upon the relationship
20 between them. *Commerce & Industry Ins. Co. v. Toledo* (1989), 45 Ohio St. 3d 96, 98.
21 Whether a duty exists depends on the foreseeability of injury. *Meniffee v. Ohio Welding*
22 *Products, Inc.* (1984), 15 Ohio St. 3d 75, 77. Injury is foreseeable if a defendant knew or
23 should have known that his act was likely to result in harm to someone. *Mudrich v. Standard*
24 *Oil Co.* (1950), 153 Ohio St. 31, 39.
25
26

1 13. Once the existence of a duty is found, a defendant must exercise that degree of care which an
2 ordinarily careful and prudent person would exercise under the same or similar
3 circumstances. *Mussivand v. David* (1989), 45 Ohio St. 3d 314, 318.

4 14. At all times relevant, the Plaintiff was a patient staying at Defendant's rehabilitation center,
5 which she went to following a knee surgery she had to treat injuries she suffered in a motor
6 vehicle accident.

7 15. The Defendant owed a duty to Plaintiff to exercise ordinary care and to protect her.

8 16. The Defendant breached their duty of care to the Plaintiff.

9 17. The Defendant's breach of care proximately caused Plaintiff to be injured.

10 18. As a direct and proximate result of the Defendant's negligence, the Plaintiff suffered personal
11 injuries and damages of a severe and permanent nature, experienced pain, and discomfort,
12 and will continue to experience pain and discomfort in the future.

13 19. The Plaintiff suffered economic and non-economic damages because of Defendant's neglect.

14 20. The existence of the bed sores speaks for themselves as to Defendant's neglect pursuant to
15 principles of *res ipsa loquitor*.

16
17
18 **PRAYER FOR RELIEF / REQUEST FOR REMEDIES**

19 WHEREFORE, the Plaintiff prays for judgment in her favor and against the
20 Defendant on all her claims and requests an award of compensatory damages that is above
21 and beyond the jurisdictional minimum to be later proven at trial; together with interest and
22 attorney's fees; an award of costs; and for any other relief in law or equity that this honorable
23 Court deems just and proper.
24
25
26

JURY DEMAND

WHEREFORE, the Plaintiff requests a trial by jury on all issues so triable by the maximum number of jurors permitted by law.

Dated: Dec. 31, 2020.

Most Respectfully Submitted,

s/ David A. Welling

DAVID A. WELLING (0075934) (lead counsel)

C. VINCENT CHOKEN (0070530)

CHOKEN | WELLING LLP

3020 W. Market Street

Akron, Ohio 44333

Tel. (330) 865-4949

Fax (330) 865-3777

davidw@choken-welling.com

vincec@choken-welling.com

Counsel for the Plaintiff